

POLICE DEPARTMENT

August 16, 2018

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In the Matter of the Charges and Specifications

Case No.

- against -

2017-17426

Police Officer Angelo Rossignolo

Tax Registry No. 951181

73<sup>rd</sup> Precinct  
-----X

At: Police Headquarters  
One Police Plaza  
New York, NY 10038

Before: Honorable Nancy Ryan  
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department:

Penny Bluford-Garrett, Esq.  
Department Advocate's Office  
One Police Plaza, Room 402  
New York, NY 10038

For the Respondent:

Marvyn M. Kornberg, Esq.  
125-10 Queens Boulevard  
Kew Gardens, NY 11415

To:

HONORABLE JAMES P. O'NEILL  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NEW YORK 10038

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## CHARGES AND SPECIFICATIONS

1. Said Police Officer Angelo Rossignolo, while assigned to the 61<sup>st</sup> Precinct, on or about and between December 7, 2014 and March 24, 2016, did knowingly associate with a person or organization reasonably believed to be engaged in, likely to engage in or to have engaged in criminal activities.

P.G. 203-10, Page 1, Paragraph 2C      PUBLIC CONTACT PROHIBITED  
CONDUCT

## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on July 18, 2018. Respondent, through his counsel, entered a plea of Not Guilty to the subject charge. The Department called Sergeant John Buthorn as a witness. Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

## DECISION

After reviewing the evidence presented at the trial, and assessing the credibility of the witnesses, I find Respondent Not Guilty of Specification No. 1.

## FINDINGS AND ANALYSIS

In this case, it is undisputed that Respondent has been a police officer for approximately 7 years. Respondent knows a man named Person A was arrested and given a Desk Appearance Ticket ("DAT") on December 7, 2014, for charges of assault and possession of cocaine. The DAT had a return court date of February 6, 2015. The case was dismissed and sealed. Neither the date of, nor the reason for, the dismissal was presented as evidence. Between December 22, 2014, and March 7, 2016, there were approximately 208 calls made from Respondent's phone number to Person A's phone number. Between December 24, 2014, and March 24, 2016, there were approximately 287 calls made from Person A's phone number to Respondent's phone number. (Dep't Ex. 3) It is noted that Sergeant Buthorn, the Department witness, acknowledged in his testimony that a call was

counted in these totals even if the record indicated it lasted for 0 hours, 0 minutes, 0 seconds. (Tr. 32)

It is the Department's position that as of the date of December 7, 2014, when Person A was arrested, that Respondent, based on his continued phone contacts with Person A, was in violation of Patrol Guide section 203-10 Page 1 Paragraph 2C, which prohibits a member of service from knowingly associating with any person reasonably believed to be engaged in, likely to engage in, or to have engaged in criminal activities.

In support of their charge, the Department called Sergeant John Buthorn as a witness. Sergeant Buthorn interviewed Respondent two times in formal Department interviews which took place on March 23, 2017, and May 25, 2017. Sergeant Buthorn testified that during the course of the investigation he became aware that the Federal Bureau of Investigation notified the NYPD that Respondent had travelled with Person A and [REDACTED] to the Canadian border in August, 2014, where they were denied entry into Canada due to the criminal conviction of Person A. Sergeant Buthorn learned that Person A had a federal criminal conviction in 2003 for robbery. (Tr. 15-16) Sergeant Buthorn subpoenaed phone records between Person A and Respondent which revealed the number of calls indicated above. (Dep't. Ex. 3) He also conducted two formal Department interviews of Respondent.

During Sergeant Buthorn's March 23, 2017, (Dep't. Ex. 4) interview of Respondent, the Respondent stated that he had known Person A since Respondent was in his teens when Person A had helped him out with a car problem. (Dep't. Ex. 4, p. 6) Respondent also stated in his interview that when they were at the Canadian border he was only told that one of his friends was not allowed into the country, but he was not told which one. This episode caused

Respondent to start to feel a little bit uncomfortable hanging out with Person A and he started to distance himself from Person A. (Dep't. Ex. 4, p. 15)<sup>1</sup>

Respondent acknowledged in the March 23, 2017, interview that he thinks he became aware that Person A had received a DAT when Person A told him he got one when he was trying to break up a bar fight. Respondent stated in the interview, "... he just said he got arrested, he got a DAT and that was it. As far as I know, I think the case might've even got dismissed." Notably, the Respondent is not asked when he received this information from Person A.

In the May 25, 2017, Department interview, Respondent is now asked when did he find out about the arrest that resulted in the DAT. Respondent stated that he didn't remember. In response to a leading question, Respondent stated that it could have been within a week or two of when the incident happened. Respondent also stated that Person A told him, "He got arrested, and they brought him to the 68. They DAT'd him for assault. He went to court later on and he said the case got dismissed." (Dep't. Ex. 5, p. 5) When pressed again about when the conversation took place, Respondent said he really didn't know. (Dep't. Ex. 5, pp. 5-6)

Respondent was informed at the end of his official Department interview not to communicate with Person A and the Department has no records indicating that he did have any such communication from that point on. (Tr. 69)

Respondent testified at trial. He testified similarly to statements in his Department interviews about how he first met Person A and he described his social interactions with him, including the trip to the Canadian border. He stated that now he thinks he first learned of Person A's DAT sometime in February because it was cold outside when he had the

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<sup>1</sup> The Department clearly stated at trial that the trip to Canada was not considered as grounds for the Department's conclusion that there was an inappropriate association between Respondent and Person A. The substantiation was based solely on the arrest resulting in a DAT on December 7, 2014. (Tr. 70-72)



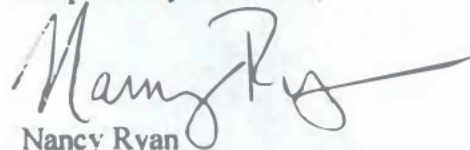
conversation with him. (Tr. 88-90) Respondent maintained that when he learned of the DAT he also learned that it had been dismissed. He further testified that in August, 2016, he was called into a Grand Jury and then learned that Person A was involved in criminal activities and Respondent had no further communications with him after that point. Respondent himself was not charged with anything after his Grand Jury appearance. (Tr. 94-95)

In order to find Respondent Guilty in this case, the Department had to prove that Respondent had knowledge and a reasonable belief, as of December 7, 2014 (the date the Department charged as the initial date), that Person A was engaged in, was likely to engage in, or had engaged in criminal activities." The Department first of all provided no evidence to support such knowledge by the Respondent on the initial charged date of December 7, 2014. The Department investigator doesn't even ask in the first interview when the Respondent learned of the DAT. The second interview likewise provides no evidence of this date in that the Respondent ultimately states he didn't know. When the Respondent does recollect more about the incident, he provides a mid-February, 2015, date for his conversation with Person A. Even if the court were to view this mid-February date as the correct start date for the charge in this case, the Department has also failed to prove by a preponderance of the evidence that Respondent had information that would provide him with a reasonable belief that Person A in fact did meet the criteria of individuals to be avoided under PG 203-10, Page 1, Para 2C. Respondent testified in a manner viewed as credible by this court based on his demeanor and the consistency of his answers, that by the time he found out about the case, it had been dismissed. As the Department could provide no reason for the dismissal, which could have included anything such as the prosecution deciding that Person A had not committed any crime, it is unreasonable to conclude that Respondent should have had a reasonable belief

that Person A had engaged in criminal activities at the time he simultaneously learned of the DAT and subsequent dismissal.

I find that as the Department has failed to prove its case by a preponderance of the evidence that Respondent is Not Guilty.

Respectfully submitted,



Nancy Ryan

Assistant Deputy Commissioner Trials

**APPROVED**

SEP 25 2018



JAMES P. O'NEILL  
POLICE COMMISSIONER